



*United States Attorney  
Southern District of New York*

FOR IMMEDIATE RELEASE  
AUGUST 7, 2006

CONTACT: U.S. ATTORNEY'S OFFICE  
HEATHER TASKER, LAUREN McDONOUGH  
PUBLIC INFORMATION OFFICE  
(212) 637-2600

**NEW YORK CITY TRANSIT AUTHORITY AGREE TO SETTLE CIVIL  
CHARGES THAT IT VIOLATED THE CLEAN AIR ACT**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced today that the New York City Transit Authority (the TRANSIT AUTHORITY) has agreed to pay \$165,000 to resolve a civil lawsuit alleging that it violated the Clean Air Act by failing to perform timely repairs of air conditioning units on subway cars to prevent the leakage of ozone-destroying chlorofluorocarbons (CFCs) and by failing to maintain adequate repair records as required by applicable regulations. A settlement agreement signed by the parties was lodged today in the case, which is pending before United States District Judge LORETTA A. PRESKA.

Pursuant to the Clean Air Act, the United States Environmental Protection Agency promulgated Stratospheric Ozone Regulations intended to minimize the amount of ozone-depleting CFCs that are emitted into the atmosphere. The purpose of EPA's regulations is to reduce emissions of CFCs to the lowest possible level during service, maintenance, repair, and disposal of appliances. Among other things, the Regulations require that owners or operators of subway cars with air conditioning units that normally contain more than 50 pounds of refrigerant repair a refrigerant leak within 30 days of discovery if the leak is such that the loss of refrigerant will exceed 15 percent of the total refrigerant charge during a 12-month period. In addition, the regulations require that the owners or operators of such subway cars maintain servicing records documenting the date and type of service, as well as the quantity of refrigerant added.

The Government's complaint against the TRANSIT AUTHORITY alleged that on a number of occasions from 1998 through 2004, the TRANSIT AUTHORITY violated these regulations by failing to repair leaks in the air conditioning units on subway cars covered by the regulations within thirty days of the date of discovery of the leaks. The complaint also alleged that on a number of occasions

during the same period, the TRANSIT AUTHORITY failed to maintain servicing records documenting the quantity of refrigerant added to the air conditioning units on subway cars covered by the regulations.

The Government's allegations applied only to the subway cars operated by the TRANSIT AUTHORITY known as the "Redbirds," which the TRANSIT AUTHORITY has represented have been retired from active service. As a result, the Government's settlement with the TRANSIT AUTHORITY sought only monetary penalties and no injunctive relief.

The TRANSIT AUTHORITY agreed to pay the Government \$165,000 to settle the charges outlined in the complaint. In agreeing to the settlement, the TRANSIT AUTHORITY did not admit any wrongdoing or liability. In accordance with federal regulations, the settlement agreement will be lodged with the court for a period of not less than 30 days for public notice and comment, during which period the Government may withdraw or withhold its consent if the comments regarding the settlement agreement disclose facts or considerations indicating that the settlement agreement is inappropriate, improper, or inadequate. Otherwise, at the close of the notice and comment period, the Government will seek to have the settlement agreement finally approved by the court.

Mr. GARCIA stated: "This settlement underscores the Government's commitment to ensuring that transit systems make reducing leaks of ozone-depleting substances a priority as required under the Clean Air Act and related regulation. Such entities must be vigilant in taking steps to ensure that leaks are repaired and records kept as required by the rules."

Mr. GARCIA praised the investigative efforts and assistance provided in the case by the Environmental Protection Agency.

Assistant United States Attorneys HEIDI A. WENDEL and EDWARD SCARVALONE are in charge of the case.

06-117

###